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10/686,348

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Dale W. Malik

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AT&T Legal Department - TKHR

Attn: Patent Docketing

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EXAMINER

HUSSAIN, TAUQIR

ART UNIT

PAPER NUMBER

2452

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/686,348	<b>Applicant(s)</b> MALIK, DALE W.	
	<b>Examiner</b> TAUQIR HUSSAIN	<b>Art Unit</b> 2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to amendment /reconsideration filed on 10/02/2009, the amendment/reconsideration has been considered. Claims 1 has been amended. Claims 1-21 and 23 are pending for examination, the rejection cited as stated below.

### ***Claim Objections***

2. Claim 1 reciting "... and wherein in response determining...." line 13. Examiner anticipate that a phrase missing a word "to" and should be read as "...and wherein in response to determining....". Correction is required.

### ***Response to Arguments***

3. Applicant's arguments filed on 10/02/2009 have been fully considered but they are not deemed to be persuasive. In the remarks, applicant argued in substance that

(a) Prior art "Lee and Penner" does not teach, "*wherein in response to a determination that the recipient is engaged in an IM session with an earlier sender, the sender is queried to join the IM session, and wherein in response to determining that the sender desires to join the IM session, the second sender is queried to determine whether to allow the sender to join the IM session*".

(b) Prior art "Lee and Penner" does not teach, "*in response to determining that no input from the first recipient is received during the predetermined time*

*interval, prompting the sender to forward the instant message from the first recipient to a second recipient”.*

As to point (a), Examiner respectfully disagrees and suggest that prior art “Lee and Penner” does teaches the limitation as disclosed in Lee [0048]—[0054]. Lee discloses the meeting negotiations to setup a meeting among plurality of users/client. Meeting negotiation involves, scheduling agent, meeting requester and invitees. In paragraph [0048], the request sent to the invitees requires confirmation 701. The confirmation is returned to the scheduling agent. The scheduling agent presents the invitee list to the meeting scheduler indicating confirmation status as well as invitee status where the invitee status includes that he will not attend or that he may attend indicators, which is similar to he is engaged in some activity e.g. chatting with some other user. In paragraph [0050], Lee discloses, the scheduler agent provides the meeting requester with progress status of the negotiations with invitees while the negotiations are in progress. In one embodiment, the meeting requester can interact with the meeting negotiations by modifying the meeting criteria screen, i.e. add or delete invitees, change date/time of suggested meeting etc. is similar to querying the sender if he has desire to join the meeting and letting the invitee add himself to the calendar or meeting interactively. Lee further discloses in paragraph [0051] that meeting requester and scheduler agent creates a meeting specific criteria for invitees and let the invitees accept the various meeting aspects such as date, time, number of invitees etc. interactively which implicitly include the permission to join the meeting.

As to point (b), Examiner respectfully disagrees and suggest that prior art “Lee and Penner” does teaches the limitation as disclosed in “Lee” paragraph [0053] the concept of predetermined time interval or time threshold e.g. The monitor 1005 will cause the agent to continue to attempt to negotiate with the invitee until the meeting constraints are satisfied. If a **predefined time limit** is surpassed, the monitor 1005 will take program dependent action such as inform the meeting requester that the meeting cannot be scheduled because of the meeting constraints, or the meeting is scheduled with the meeting constraints not being met. Further as disclosed in "Penner" Col.4, lines 62-66, the IM server appliance 210 permits the transfer of an IM message from a first recipient user to a second recipient (e.g., a third party such as a transfer from an administrative assistant to an executive) is essentially a similar concept of forwarding the message from first recipient to second recipient as Penner further discloses, In one embodiment, the IM chat may be automatically transferred in response to a **user-defined setting**. User-defined setting is equivalent to e.g. prompting the user, permitting the user etc. Applicant argument that Penner teaches away from “prompting the sender to forward the instant message” is relevant to the user-defined setting which is corresponding to a user preferences to run the application in specific mode.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1-3, 5, 9-12, 14 and 18-20 are rejected under 35 U.S.C 103(a) as being unpatentable over Lee et al. (Pub. No. US 2003/0233265 A1), hereinafter "Lee" in view of Penner et al. (Patent. No.: US 7,328,247 B2), hereinafter "Penner".

6. As to claims 1 and 10, Lee discloses, receiving an instant messaging (IM) message from a sender to a first recipient (Lee, [0057, lines 1-4], where Instant Message is sent to a user who could be the first user to receive the IM message);

waiting a predefined time interval for an input from the first recipient, the input being responsive to the IM message (Lee, [0060, lines 3-5], where predetermined time interval is disclosed);

determining whether input from the first recipient is received during the predetermined time interval (Lee, [0060, lines 5-7], where agent determines if the if time is exceeded for response); and

in response to determining that no input from the first recipient is received during the predetermined time interval (Lee, [0060, lines 5-7], where agent determines if the time is exceeded for response).

wherein in response to a determination that the recipient is engaged in an IM session with an earlier sender, the sender is queried to join the IM session, and wherein in response determining that the sender desires to join the IM session, the second sender is queried to determine whether to allow the sender to join the IM session (Lee, [0048—[0054]. Lee discloses the meeting negotiations to setup a meeting among plurality of users/client. Meeting negotiation involves, scheduling agent, meeting requester and invitees. In paragraph [0048], the request sent to the invitees requires

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confirmation 701. The confirmation is returned to the scheduling agent. The scheduling agent presents the invitee list to the meeting scheduler indicating confirmation status as well as invitee status where the invitee status includes that he will not attend or that he may attend indicators, which is similar to he is engaged in some activity e.g. chatting with some other user. In paragraph [0050], which is similar to querying the sender if he has desire to join the meeting and letting the invitee add himself to the calendar or meeting interactively. Lee further discloses in paragraph [0051] that meeting requester and scheduler agent creates a meeting specific criteria for invitees and let the invitees accept the various meeting aspects such as date, time, number of invitees etc. interactively which implicitly include the permission to join the meeting.)

Lee however is silent on disclosing explicitly, prompting the sender to forward the instant message from the first recipient to a second recipient and indicate, by the first recipient, that the IM message originated from the sender.

Penner, however discloses a similar concept where, prompting the sender to forward the instant message from the first recipient to a second recipient and indicating, by the first recipient, that the IM message originated from the sender (Penner, Col.4, lines 62-67 and Col.5, lines 1-22, where IM server appliance 210 permits the transfer of an IM message from a first recipient user to a second recipient and obviously header information, parameters or user ID can indicate the original sender of the message. Penner further discloses that this transferring mechanism can be automated in response to user-defined settings which means sender may have a setting which may require the first recipient to forward the message to second recipient or first recipient

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may ask for permission from sender before transferring the message to second recipient etc. user attributes and user-defined setting are well known in the art to control the specific application function on behalf of recipient, sender or user).

Therefore it would have been obvious to one ordinary skilled in the art at the time the invention was made to combine the teachings of Lee with the instant messaging concepts of Penner, provides a IM server appliance also includes access control lists for selectively providing client computer processing systems access to the plurality of public IM services on at least one of a group and per-user basis.

7. As to claims 5 and 14, Lee and Penner disclose the invention substantially as independent claims 1 and 10 above, including, receiving an instant messaging (IM) message from a first sender to a recipient (Lee, [0057, lines 1-4], where Instant Message is sent to a user who could be the first user to receive the IM message);

determining whether input from the first recipient is received during a predetermined time interval (Lee, [0060, lines 5-7], where agent determines if the if time is exceeded for response);

in response to determining that no input is received during the predetermined time interval (Lee, [0060, lines 5-7], where it is established that agent determines if the if time is exceeded for response) determining whether the first recipient is engaged in an IM chat session with a second sender (Lee, [0048, lines 3-7], where invitee/recipient has the status indicator that he will not attend or will attend or busy with other meetings, since it is well known in the art to that status can be customize as per user preferences,



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therefore user can select the status option to display as busy chatting with 2<sup>nd</sup> or 3<sup>rd</sup> user); and

in response to determining that the first recipient is engaged in an IM chat session with the second sender, replying to the IM message in response to determining that the recipient is engaged in the IM chat session with the second sender (Lee, [0048, lines 3-7], where invitee/recipient has the status indicator that he will not attend or will attend or busy with other meetings, since it is well known in the art to that status can be customize as per user preferences, therefore user can select the status option to display as busy chatting with 2<sup>nd</sup> or 3<sup>rd</sup> user), prompting the sender to forward the instant message from the first recipient to a second recipient and indicating, by the first recipient, that the IM message originated from the sender (Penner, Col.4, lines 62-67 and Col.5, lines 1-22, where IM server appliance 210 permits the transfer of an IM message from a first recipient user to a second recipient. Penner further discloses that this transferring mechanism can be automated in response to user-defined settings).

8. As to claim 19 and 20 are rejected for the same rationale as applied to claim 1, 5, 10 and 14 above.

9. As to claims 2 and 11, Lee and Penner disclose the invention substantially as in parent claims 1 and 10 above, including, providing a message indicating the first recipient's unavailability to engage in an IM chat session (Lee, [0045, lines 8-10], where displaying status of user being taking a vacation day is indication that user's unavailability to chat on that particular day).

10. As to claim 9 and 18 are rejected for the same rationale as applied to claims 2 and 11.

11. As to claims 3 and 12, Lee and Fostick disclose the invention substantially as in parent claims 1 and 10 above, including, providing a message requesting the sender to wait for a predetermined time period (Lee, [0012], where response to a predetermined time is disclosed which means there is a waiting period for response).

12. Claims 4, 8, 13 and 17 are rejected under 35 U.S.C 103 (a) as being unpatentable over Lee and Penner in view of Murphy et al. (Pub. No.: US 2007/0274497 A1), hereinafter "Murphy".

13. As to claims 4 and 13, Lee and Penner disclose, the invention substantially as in parent claim 1 and 10. Lee and Penner however are silent on disclosing, "Periodically providing messages" or "the messages periodically being provided at predefined time intervals" or "each message indicating the first recipient's unavailability to engage in an IM chat session during the corresponding predefined time interval".

Periodically providing messages (Murphy, [0066], where message is queried periodically for presence detection to call destination computer system), the messages periodically being provided at predefined time intervals (Murphy, where message is queried periodically for presence information at predefined time i.e. every 15 sec), each message indicating the first recipient's unavailability to engage in an IM chat session

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during the corresponding predefined time interval (Murphy, [0066], where status and user's availability is determined by status determination).

Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to combine the teachings of Lee and Penner with the collaborated system (call and presence detection) of Murphy in order to provide an electronic communication associated with the phone call is sent across the network to the one or more external online service provider systems conditioned on whether the identity is determined to be available to receive the electronic communication.

14. As to claims 8 and 17 are rejected for the same rationale as applied to claims 4 and 13 above.

15. Claims 6-7 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Penner in view of Manabe.

16. As to claims 6 and 15, Lee and Penner disclose the invention substantially as in parent claims 5 and 14 above. Lee and Penner however, are silent on disclosing explicitly, waiting a predefined time interval prior to replying to the IM message.

Manabe, however discloses, waiting a predefined time interval prior to replying to the IM message (Manabe, Abstract, where detection of a keystroke or keyword, judges user status based on the status of the user terminal means when recipient replies to a message, a sender can see the status of the recipient as recipient is writing, therefore, sender can wait until recipient finish writing to conduct a smooth conversation in real time).

Therefore, it would have been obvious to one ordinary skilled in the art at the time the invention was made to combine the teachings of Lee and Penner with the teachings of Manabe in order to provide a real-time status of a user called be a keyword is reported to a users engaged in IM chat session.

17. As to claims 7 and 16, Lee, Penner and Manabe disclose the invention substantially as in parent claims, 5 and 14, including, indicating to the first sender that the first recipient is engaged in an IM chat session with the second sender (Manabe, Col.1, lines 55-60, where another application could be a chat session with second user).

18. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Penner in view of Matsumoto et al. (Patent No.: US 4, 639, 889), hereinafter "Matsumoto" and further in view of "XMPP Instant Messaging" by Network working group, hereinafter "NWG".

19. As to claim 21, Lee and Penner disclose the invention substantially as in parent claim 20. Lee and Penner are however silent on, a timer configured to track elapsed time from a receiving of an IM message.

Matsumoto however discloses the similar concept of "a timer configured to track elapsed time from a receiving of an IM message (Matsumoto, Col.13, lines 26-35, where timer is set on the response time monitoring timer to track the elapsed time of a response).

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time the invention was made to combine the teachings of Lee and Penner with the

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teachings of Matsumoto in order to provide a data communication control system in which data communication between a main control assembly and specific terminal units is effected according to the main program of the assembly and which also permits data communication between the main control assembly and other terminal units not included in the sequential processing under the main program.

Lee, Penner and Matsumoto however are silent on disclosing explicitly, "the reply logic comprises message-generation logic configured to generate a message, the message being indicative of the first recipient's unavailability to engage in and IM chat session."

NWG however discloses the scope of availability and unavailability of status as claimed in instant application where, "the reply logic comprises message-generation logic configured to generate a message, the message being indicative of the first recipient's unavailability to engage in and IM chat session." (NWG, paragraphs, 4.3-4.6, where various scenarios are disclosed to generate a message showing user's various status e.g. away, busy, do not disturb, extended away etc.)

Therefore, it would have been obvious to one ordinary skilled in the art at the time the invention was made to combine the teachings of Lee, Penner and Matsumoto with the teachings of NWG in order to provide a system for promoting smooth communications in a chat system, where customizing the user statuses will make the communication easier among plurality of users.

20. As to claim 23, Lee, Penner, Matsumoto and NWG discloses the invention substantially as in parent claim 20 above, including, comprising a processor configured

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to execute logic stored in the memory component (Penner, Fig.2, elements-130, where server has a processor and data is stored in a memory, Col.2, lines 9-20, where server provides subscriber with varies forms of on-lines services including digital communication).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAUQIR HUSSAIN whose telephone number is (571)270-1247. The examiner can normally be reached on 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on 571 272 6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/T. H./

Examiner, Art Unit 2452

/THU NGUYEN/

Supervisory Patent Examiner, Art Unit 2452